IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 17473 of 2005(E)

PETITIONER:

ABDUL AZEEZ.K.K., AGED 52 YEARS,
S/O.LATE KUNJU MUHAMMED, KOLLAMPARAMBIL HOUSE,
DESHABHIMANI ROAD, KOCHI-17.

BY ADV. SRI.ESM.KABEER

RESPONDENTS:
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1. REVENUE DIVISIONAL OFFICER,
FORT COCHIN.

2. THE VILLAGE OFFICER,
VAZHAKKALA.

BY G.P. SRI.MOHAMMED RAFFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE PROCEEDINGS OF R.D.O., FORT COCHIN DT.26.4.2005.

P2: TRUE COPY OF THE LICENCE FROM THE DIRECTOR OF FACTORIES AND BOILERS DT.23.7.2003.

P3: TRUE COPY OF SALE DEED DT.19.3.1998.

P4: TRUE COPY OF LICENCE ISSUED BY TRIKKAKARA PANCHAYAT DT.27.9.2001.

P5: TRUE COPY OF TAX RECEIPT ISSUED BY PANCHAYAT DT.6.5.2005.

P6: TRUE OCPY OF CERTIFICATE ISSUED BY SALES TAX OFFICE DT.8.1.92.

P7: TRUE COPY OF RENEWAL CERTIFICATE FROM THE DIST. INDUSTRIES CENTRE, ERNAKULAM DT.29.6.93.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.17473 of 2005

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Dated this the 25th day of May, 2007.

JUDGMENT

Heard counsel for the petitioner and Government Pleader. The dispute pertains to building tax assessment in respect of petitioner's two storied building at Vazhakkala which he claims to be a factory. According to the respondents, neither in the assessment nor in the first appeal, petitioner produced any document to establish his case. Even though Tahsildar has conducted inspection and filed a report pursuant to direction of this court, the information furnished in the statement is thoroughly inadequate to decide the issue. What is to be found out is whether building is used as a factory or not. The petitioner claims that 50 workers are engaged in the garment making unit. The Tahsildar has not cared to find out whether the building has manufacturing facility such as sewing machines, employees etc., to call it a factory. In the circumstances, this court is not in a position to decide the issue on merits. The W.P. is therefore disposed of setting aside the orders and with a direction to the Tahsildar to conduct inspection and verify whether there are sufficient number of manufacturing equipments and persons engaged so that the use of the

building could be treated as a factory and if so, to grant exemption. If building is used for any other purpose such as storage of goods or for sale, he can assess the building under "other buildings". The Tahsildar shall conduct inspection and if he propose to assess the building, he will issue notice to the petitioner giving details of data gathered, hear his objection and pass orders. In any case Tahsildar should complete the proceedings within two months from the date of production of copy of this judgment by the petitioner. As and when orders are issued, the earlier assessment orders will be recalled by the Tahsildar. The order of the RDO issued in appeal is also set aside.

C.N.RAMACHANDRAN NAIR
Judge

pms